



FEDERAL EMERGENCY MANAGEMENT AGENCY

| | Date | Number |
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| INSTRUCTION | May 15, 2000 | 1440.1 |
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FEMA CIVIL RIGHTS PROGRAM

1. **Purpose.** This instruction is to implement Director's Policy Statement 1-97, Civil Rights Program, dated May 12, 1997. This instruction describes the basic elements of an agencywide program that will protect all eligible persons against discrimination in the delivery of Federal Emergency Management Agency (FEMA) programs and services. It establishes policies, procedures, requirements and responsibilities for such a program.
2. **Applicability and Scope.** The provisions of this instruction are applicable to all organizations in Headquarters, regions, and field establishments having responsibility for FEMA's Civil Rights Program. However, the Federal Insurance Administration programs are excluded from the provisions of this instruction.
3. **Background.** FEMA provides financial assistance to State and local governments for a variety of routine emergency management functions, including partial payment of salaries, purchase of equipment, and provision of supplies. When the President declares a major disaster or emergency within a State, the affected localities and their inhabitants become eligible for disaster assistance (e.g., Individual and Family Grant Program, Disaster Housing Assistance, etc.). These programs are governed by the nondiscrimination regulations in Title 44, Code of Federal Regulations (CFR), Part 7. Part 7 defines the forms of discrimination that are prohibited and any exceptions thereto, methods of monitoring compliance, and procedures for administrative and judicial enforcement of nondiscrimination policies.
4. **Supersession.** The provisions of this instruction supersede FEMA Instruction 1440.1, Civil Rights Compliance and Enforcement Program, dated September 19, 1994.
5. **Authorities.**
 - a. Title VI of the Civil Rights Act of 1964.
 - b. Executive Order 11246, Equal Employment Opportunity, dated September 24, 1965, as amended.

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- c. Title IX of the Higher Education Amendments of 1972, as amended.
- d. The Rehabilitation Act of 1973, as amended, Section 504.
- e. Age Discrimination Act of 1975.
- f. Civil Rights Restoration Act of 1987.
- g. Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law (P.L.) 93-288, as amended.
- h. Title II of the Americans with Disabilities Act of 1990.

6. **References.**

- a. Title 44, CFR, Part 7, Subpart A, Nondiscrimination in FEMA Programs - General; Section 206.11, Nondiscrimination in Disaster Assistance; Part 16, Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Federal Emergency Management Agency; and Part 19, Nondiscrimination on the Basis of Sex in Education Programs Receiving Federal Financial Assistance.
- b. Title 28 CFR, Part 42.401 et seq., Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs.
- c. Director's Policy Statement No. 1-97, Civil Rights Program, dated May 12, 1997.
- d. FEMA Instruction 1420.1, Access to Agency Programs and Activities by Persons with Disabilities, dated August 11, 1994.

7. **Definition.** A list of the definitions of terms used in this instruction is provided in attachment A.

8. **Policy.** It is FEMA's policy to ensure that the Civil Rights of all persons receiving services or benefits from Agency programs and activities are protected. No person shall, on the grounds of race, color, national origin, sex, religion, age, disability, or economic status, be denied the benefits of, be deprived of participation in, or be discriminated against in any program or activity receiving financial assistance from FEMA. In particular, all personnel carrying out Federal major disaster or emergency assistance functions, including the distribution of supplies, the processing of the applications, and other relief and assistance activities, shall perform their work in an equitable and impartial manner without discrimination. It is Agency policy to prohibit such discrimination in any

programmatic guideline, procedure, or other directives. All valid complaints of Civil Rights violations will be investigated promptly, and any settlement will be enforced, if necessary, by administrative, legal, or judicial means.

These prohibitions extend to all entities receiving Federal financial assistance from the Agency, including State and local governments, Indian tribal governments, educational institutions, and any organization of any type obtaining benefits through the Public Assistance or Mitigation Programs. All Local Boards and their participating charitable organizations receiving aid from the Emergency Food and Shelter Program are covered in a like manner.

9. **Objectives.** The objectives of the Civil Rights Program are to ensure the following:

- a. Each application for financial assistance contains a Civil Rights assurance of compliance that incorporates the requirements of all applicable laws;
- b. Preaward reviews of all recipients and postaward compliance reviews of selected recipients of Federal financial assistance are conducted when feasible;
- c. Guidance and technical assistance are provided to FEMA components, applicants, recipients, and program beneficiaries;
- d. The Equal Rights Officer Cadre (ERO) works proactively in conjunction with other Agency components to resolve individual and community issues during disaster operations;
- e. Complaints of discrimination in FEMA financial assistance programs are resolved informally if possible, but otherwise investigated promptly and thoroughly; and,
- f. Compliance negotiations are undertaken immediately when the recipient is not in compliance with Civil Rights laws (all recipients or applicants found in noncompliance will achieve voluntary compliance or face enforcement action).

10. **Responsibilities.**

- a. **The Director, FEMA,** is the official responsible for developing and issuing agencywide policy to ensure compliance with Civil Rights statutes and regulations governing federally assisted and conducted programs.
- b. **Associate Directors, Executive Associate Directors, Regional Directors, and Office Directors,** are responsible for ensuring that Agency programs under their respective authority are administered in accordance with Civil Rights laws, regulations, and the provisions of this instruction.

c. **The Director, Office of Equal Rights**, is responsible for the following:

- (1) Establishing procedures for the overall management of the Civil Rights program;
- (2) Providing advice, guidance, and technical assistance to Agency organizational elements concerning Civil Rights requirements pertaining to FEMA assistance;
- (3) Reviewing for concurrence all proposed FEMA directives and similar agencywide issuances applicable to FEMA assistance matters to ensure their compliance with the objectives of the Civil Rights Program;
- (4) Ensuring that each applicant for Federal financial assistance submits a signed assurance of compliance with Civil Rights regulations and such other data as may be specified by Civil Rights regulations;
- (5) Establishing a system of periodic compliance reviews, including on-site reviews when there is a reason to believe discrimination may be occurring;
- (6) Making formal determination of noncompliance and initiating negotiations with recipients to achieve voluntary compliance with Civil Rights requirements;
- (7) Signing voluntary compliance agreements and monitoring corrective action required;
- (8) Recommending enforcement action when voluntary compliance is not achieved;
- (9) Maintaining liaison with other Federal departments and agencies having lead role responsibility in Civil Rights compliance and enforcement, and providing reports to the Assistant Attorney General for Civil Rights as required by Title 28 CFR, Part 42.401 et seq, Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs;
- (10) Establishing standard procedures for informal resolution, processing, and formal investigation of Civil Rights discrimination complaints;
- (11) Conducting formal investigations of discrimination complaints in federally assisted and conducted programs, and making findings and recommendations based on that investigation;
- (12) Providing Civil Rights training to headquarters and regional staffs and to the EROs as required;
- (13) Establishing standard reporting procedures for EROs and other field Civil Rights staffs; and,

(14) Providing appropriate Civil Rights posters, pamphlets, regulations, and other information to assist field office staffs in meeting Civil Rights requirements.

b. **The General Counsel** is responsible for reviewing and providing legal advice on policy affecting administration of the Agency's Civil Rights Program in regard to financial assistance.

11. Procedures for Preaward and Postaward Reviews.

a. Each organization granting Federal financial assistance reviews applications for FEMA financial assistance to ensure each is accompanied by a signed Civil Rights assurance of compliance required by Department of Justice guidelines (Title 28 CFR, Sections 42.406, Data and Information Collection; and 42.407, Procedures to Determine Compliance).

b. The reviewing organization notifies the Office of Equal Rights when a determination of compliance cannot be made from the Civil Rights assurance of compliance form. The OER conducts a routine desk audit to verify or gather the necessary information to ensure compliance. Such information may include, but is not limited to, any record of pending or past Civil Rights complaints against the applicant; statistical data on service to protected groups; and notices of adherence to Civil Rights regulations contained in publications issued by the applicant.

c. States must designate an appropriate Agency official to act as Civil Rights coordinator.

d. OER may conduct a postaward compliance review on selected recipients of FEMA financial assistance. This is an in-depth review of the recipient's federally assisted programs and activities including requests for data and information. FEMA may conduct on-site reviews when it has reason to believe that discrimination may be occurring in such programs or activities. There are similarities between complaint investigations and compliance reviews. Compliance reviews are conducted in a manner similar to that of a complaint investigation, because documentation is studied thoroughly. Visits are made to the actual grant site and local special interest groups are interviewed as well as concerned individuals. The major practical difference between the two types of investigations concerns the likely scope of the investigation. In the case of a compliance review, FEMA determines the scope of the investigation; in the case of complaint investigation, the complaint defines, at least initially, the scope of the investigation.

12. Discrimination Complaint Processing.

a. Equal Rights Officers are authorized to attempt resolution of individual or community-based Civil Rights complaints arising during disaster operations. If resolution attempts fail, the ERO will provide the complainant a copy of the brochure, "Your Civil Rights and Disaster Assistance," and a copy of the optional FEMA Form 14-7, "Notice of Right to File a Civil Rights Complaint." The signature on the form by the complainant simply acknowledges that he/she

received the brochure and general information about filing a complaint. It is the responsibility of the complainant to prepare and submit a complaint to OER. The complaint must be in writing, except where the complainant's disability requires submission of the complaint in an alternate format, such as computer diskette, audiotape, etc.

b. All written complaints alleging discrimination on the basis of race, color, national origin, sex, age, disability, and/or, (in the case of disaster assistance) economic status, are forwarded to the Director, OER. If an ERO is not involved in the initial resolution effort of a complaint, the use of FEMA Form 14-7 is not required.

c. The Director, OER, through the Civil Rights Program staff, conducts a preliminary inquiry into complaints and attempts to resolve each complaint informally, unless such inquiry has been previously performed by an ERO and proven unsuccessful. A full report of all activities carried out during the preliminary inquiry is made.

d. Title 44 CFR, Parts 7.11 through 16, outlines the remaining Agency procedures for voluntary compliance, enforcement action, and processing complaints of discrimination in FEMA's federally assisted programs. Procedures for processing complaints of discrimination on the basis of disability in federally conducted programs can be found in Title 44 CFR, Part 16.170.

James L. Witt
Director

Attachment – Definition of Terms

Definitions of Terms

1. **Agency** unless otherwise required by the context, refers to the Federal Emergency Management Agency.
2. **Civil Rights Laws** refer to description of these statutes contained in paragraph 5.
3. **Compliance Review** is an analysis of a recipient's delivery of services or employment practices for adherence to provisions of Civil Rights laws or regulations.
4. **Complaint** is an oral or written allegation of discrimination based on race, color, national origin, sex, age, religion, retaliation, economic status, or physical or mental disability filed with OER against a recipient of FEMA Federal financial assistance. Oral allegations of discrimination must be reduced to writing and all complaints must be signed.
5. **Equal Rights Officer (ERO)** is a Disaster Assistance Employee serving at a Disaster Field Office to resolve Equal Employment Opportunity and Civil Rights complaints.
6. **Federal Financial Assistance** is any grant, loan, contract or any other arrangement by which the Agency provides or otherwise makes available assistance in the form of:
 - a. Funds;
 - b. Services of Federal personnel; or,
 - c. Real and personal property or any interest in or use of such property, including:
 - (1) Transfers or leases of such for less than fair market value or favor reduced considerations; and,
 - (2) Proceeds from a subsequent transfer or purchase of such property if the Federal share of its fair market value is not returned to the Federal Government. It does not include Federal procurement contracts.
7. **Findings and Recommended Decision** is OER's initial determination on the allegation(s) of discrimination raised in a complaint of discrimination. In the case of a compliance review, it is OER's initial determination based on a compliance review.

8. **Individual Complaint** is an allegation of discrimination by or on behalf of one or more persons. If the complaint involves allegations of discrimination from more than one party, and all such allegations can be addressed by one investigation, the complaint is classified as an individual complaint.
9. **On-site Review** is an actual visit to the site of grant to conduct an in-depth review of records and interview persons and interested groups.
10. **Program** includes any service, project or activity conducted directly by the Agency or receiving Federal financial assistance. The program may provide services, financial aid, or other benefits to individuals, including education or training, health, welfare, rehabilitation, housing, or other services. These services may be provided by employees or the recipient of Federal financial assistance or provided by others through contract or other arrangement with the recipient. Services may include work opportunities, cash, loans, or other assistance to individuals, or for the provision of facilities for furnishing services, financial aid, or other benefits to individuals. It includes services, financial aid, or benefits provided in facilities constructed with Federal financial assistance. It further includes services, financial aid, or benefits provided with the aid of any non-Federal funds, property, or other resource required to be expended or made available within the program to meet matching requirements or other conditions that must be met in order to receive the Federal financial assistance.
11. **Recipient** is any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.
12. **Regulations** refers to rules covering nondiscrimination in programs and activities receiving Federal financial assistance from FEMA, or programs directly conducted by FEMA.
13. **Responsible Agency or FEMA official** is the person assigned principal responsibility for administration of the law extending Federal financial assistance.